

1 MR. ARONOWITZ: I now identify for the record Mass
2 Media Bureau Exhibit 24 a 10-page document entitled
3 "Response of Monticello Mountaintop Broadcasting, Inc. to
4 Mass Media Bureau's First Request for Admissions.

5 JUDGE STEINBERG: Okay, the document described
6 will be marked for identification as Bureau Exhibit 24.

7 (The document referred to was
8 marked for identification as
9 Mass Media Bureau Exhibit No.
10 24.)

11 MR. RILEY: And no objection.

12 MR. NAFTALIN: No objection, Your Honor.

13 JUDGE STEINBERG: Okay, 24 is received.

14 (The document referred to,
15 having been previously marked
16 for identification as Mass
17 Media Bureau Exhibit No. 24,
18 was received into evidence.)

19 MR. ARONOWITZ: I now identify Mass Media Bureau
20 Exhibit No. 25 a two-page document that is entitled
21 Monticello Mountaintop Broadcasting, Inc.'s Amendment to the
22 Mass Media Bureau's First Request for Admissions. It's a
23 two-page document.

24 JUDGE STEINBERG: The document described will be
25 marked for identification as Bureau Exhibit 25.

1 (The document referred to was
2 marked for identification as
3 Mass Media Bureau Exhibit No.
4 25.)

5 MR. RILEY: No objection.

6 MR. NAFTALIN: No objection.

7 JUDGE STEINBERG: Okay, Exhibit 25 is received.

8 (The document referred to,
9 having been previously marked
10 for identification as Mass
11 Media Bureau Exhibit No. 25,
12 was received into evidence.)

13 MR. ARONOWITZ: I now identify for the record Mass
14 Media Bureau Exhibit No. 26, a nine-page document that is
15 the first set of joint interrogatories from the Mass Media
16 Bureau and Universal Broadcasting of New York, Inc. to Mr.
17 Turro.

18 JUDGE STEINBERG: The document described will be
19 marked for identification as Bureau Exhibit 26.

20 (The document referred to was
21 marked for identification as
22 Mass Media Bureau Exhibit No.
23 26.)

24 MR. RILEY: I have no objection.

25 MR. NAFTALIN: No objection.

1 JUDGE STEINBERG: Twenty-six is received.

2 (The document referred to,
3 having been previously marked
4 for identification as Mass
5 Media Bureau Exhibit No. 26,
6 was received into evidence.)

7 MR. ARONOWITZ: Excuse me, Your Honor. Where am
8 I?

9 JUDGE STEINBERG: You're at 27.

10 MR. NAFTALIN: You're up to 27.

11 MR. ARONOWITZ: Twenty-seven. I now identify for
12 the record as Mass Media Bureau Exhibit No. 27 a 69-page
13 document, answers of Gerard A. Turro's Response to Joint
14 Interrogatories of the Mass Media Bureau and Universal
15 Broadcasting of New York.

16 JUDGE STEINBERG: The document described will be
17 marked for identification as Bureau Exhibit 27.

18 (The document referred to was
19 marked for identification as
20 Mass Media Bureau Exhibit No.
21 27.)

22 MR. NAFTALIN: No objection.

23 MR. RILEY: I have no objection.

24 JUDGE STEINBERG: Twenty-seven is received.

25 //

1 (The document referred to,
2 having been previously marked
3 for identification as Mass
4 Media Bureau Exhibit No. 27,
5 was received into evidence.)

6 MR. ARONOWITZ: I now identify for the record as
7 Mass Media Bureau Exhibit No. 28 a five-page document,
8 Supplemental Answers of Gerard A. Turro to Joint
9 Interrogatories of the Mass Media Bureau and the Universal
10 Broadcasting of New York.

11 JUDGE STEINBERG: The document described will be
12 marked for identification as Bureau Exhibit No. 28.

13 (The document referred to was
14 marked for identification as
15 Mass Media Bureau Exhibit No.
16 28.)

17 MR. RILEY: No objection.

18 MR. NAFTALIN: No objection, Your Honor.

19 JUDGE STEINBERG: Okay, Exhibit 28 is received.

20 (The document referred to,
21 having been previously marked
22 for identification as Mass
23 Media Bureau Exhibit No. 28,
24 was received into evidence.)

25 MR. ARONOWITZ: I now identify for the record as

1 Mass Media Bureau Exhibit No. 29 --

2 MR. RILEY: Your Honor, and that exhibit before
3 you indicate the page numbers. The copy we received at our
4 office has a page missing that would have contained
5 Interrogatories 9 through 17. Maybe everybody else has
6 those interrogatories in theirs, but I --

7 MR. ARONOWITZ: Exhibit 28?

8 JUDGE STEINBERG: Which exhibit is this, Mr.
9 Riley?

10 MR. RILEY: It is the exhibit we are now looking
11 at.

12 JUDGE STEINBERG: Twenty-nine?

13 MR. RILEY: Twenty-nine.

14 MR. ARONOWITZ: Twenty-nine?

15 MR. RILEY: The Bates stamping shows 648 and then
16 in what we received at our office it jumped to 650.

17 JUDGE STEINBERG: Okay, I have the 649.

18 MR. RILEY: You do have 649.

19 MR. NAFTALIN: I do, too.

20 MR. RILEY: Okay. Well, then I will get a copy
21 from somebody. I just wanted to make sure that it was in
22 here.

23 MR. ARONOWITZ: Okay.

24 JUDGE STEINBERG: Did you identify it yet?

25 MR. ARONOWITZ: I don't think I have.

1 MR. RILEY: Oh.

2 MR. ARONOWITZ: But whatever is missing we will
3 absolutely get to you.

4 JUDGE STEINBERG: They probably weren't important
5 questions anyway.

6 MR. ARONOWITZ: Okay, so we are back at 29?

7 JUDGE STEINBERG: Yes.

8 MR. ARONOWITZ: I now identify for the record as
9 Mass Media Bureau Exhibit No. 29 a, I believe, seven-page
10 document that is First Set of Joint Interrogatories of Mass
11 Media Bureau and Universal Broadcasting of New York, Inc. to
12 Monticello Mountaintop Broadcasting, Inc.

13 JUDGE STEINBERG: The document described will be
14 marked for identification as Bureau Exhibit 29.

15 (The document referred to was
16 marked for identification as
17 Mass Media Bureau Exhibit No.
18 29.)

19 MR. NAFTALIN: No objection, Your Honor.

20 MR. RILEY: No objection, Your Honor.

21 MR. ARONOWITZ: Okay.

22 JUDGE STEINBERG: Okay.

23 MR. ARONOWITZ: And with the caveat that --

24 JUDGE STEINBERG: Yes, Mr. Riley will get that
25 page.

1 MR. ARONOWITZ: -- we owe Mr. Riley a page.

2 JUDGE STEINBERG: Twenty-nine is received.

3 (The document referred to,
4 having been previously marked
5 for identification as Mass
6 Media Bureau Exhibit No. 29,
7 was received into evidence.)

8 MR. ARONOWITZ: Okay, just for my -- all right.

9 JUDGE STEINBERG: What was it, 649 that you
10 needed?

11 MR. RILEY: Yes, Your Honor.

12 Now, we have a copy of that page in our files as
13 we received it, but I want to have the copy as Mr. Aronowitz
14 has exchanged it.

15 JUDGE STEINBERG: Right.

16 MR. ARONOWITZ: Absolutely.

17 JUDGE STEINBERG: You want to see what changes he
18 made.

19 (Laughter.)

20 MR. RILEY: No suspicions. I just want to see the
21 exhibit, please.

22 MR. ARONOWITZ: I'm assuming a fax will be
23 appropriate?

24 MR. RILEY: That would be fine.

25 JUDGE STEINBERG: Bring it tomorrow to the

1 deposition.

2 MR. ARONOWITZ: There you go. Forgot about
3 tomorrow.

4 JUDGE STEINBERG: Unless you need it today.

5 MR. RILEY: No, I surely don't, Your Honor.

6 MR. ARONOWITZ: Okay, the next exhibit I will
7 identify as Mass Media Bureau Exhibit 30. It is, I believe,
8 an 11-page document which is the answers of Monticello
9 Mountaintop Broadcasting, Inc. to the First Set of Joint
10 Interrogatories.

11 JUDGE STEINBERG: The document described will be
12 marked for identification as Bureau Exhibit 30.

13 (The document referred to was
14 marked for identification as
15 Mass Media Bureau Exhibit No.
16 30.)

17 MR. NAFTALIN: No objection.

18 MR. RILEY: No objection, Your Honor.

19 JUDGE STEINBERG: Bureau Exhibit 30 is received.

20 (The document referred to,
21 having been previously marked
22 for identification as Mass
23 Media Bureau Exhibit No. 30,
24 was received into evidence.)

25 MR. ARONOWITZ: Okay, I now identify for the

1 record Mass Media Bureau Exhibit No. 31, which is, I
2 believe, a five-page document which is the Second Set of
3 Interrogatories from the Mass Media Bureau to Monticello
4 Mountaintop Broadcasting, Inc.

5 JUDGE STEINBERG: The document described will be
6 marked for identification as Bureau Exhibit 31.

7 (The document referred to was
8 marked for identification as
9 Mass Media Bureau Exhibit No.
10 31.)

11 MR. RILEY: No objection, Your Honor.

12 MR. NAFTALIN: No objection, Your Honor.

13 JUDGE STEINBERG: Exhibit 31 is received.

14 (The document referred to,
15 having been previously marked
16 for identification as Mass
17 Media Bureau Exhibit No. 31,
18 was received into evidence.)

19 MR. ARONOWITZ: I now identify as Mass Media
20 Bureau Exhibit No. 32 the Provisional Response of Monticello
21 Mountaintop Broadcasting, Inc. to the Mass Media Bureau
22 Second Set of Interrogatories, and the verification of the
23 answers by Mr. Weis, which I believe is a nine-page
24 document.

25 JUDGE STEINBERG: The document described will be

1 marked for identification as Bureau Exhibit 32.

2 (The document referred to was
3 marked for identification as
4 Mass Media Bureau Exhibit No.
5 32.)

6 MR. RILEY: In identifying it, I think I heard Mr.
7 Aronowitz, Your Honor, say "and the verification," but
8 that's not included in here, is it?

9 MR. ARONOWITZ: I hope so.

10 MR. RILEY: Oh. I'm sorry. It is.

11 MR. ARONOWITZ: Again, this is just a
12 consolidation of lots of pages that have been flying around.

13 MR. RILEY: My problem. My mistake.

14 I have no objection.

15 MR. NAFTALIN: No objection.

16 JUDGE STEINBERG: Exhibit 32 is received.

17 (The document referred to,
18 having been previously marked
19 for identification as Mass
20 Media Bureau Exhibit No. 32,
21 was received into evidence.)

22 MR. ARONOWITZ: I now identify for the record as
23 Mass Media Bureau Exhibit No. 33 a First Request for Joint
24 Production of Documents to Gerard A. Turro and Monticello
25 Mountaintop Broadcasting, Inc., which is a six-page

1 document.

2 JUDGE STEINBERG: The document described will be
3 marked for identification as Bureau Exhibit 33.

4 (The document referred to was
5 marked for identification as
6 Mass Media Bureau Exhibit No.
7 33.)

8 MR. RILEY: Subject to your opening comments, Your
9 Honor, about this being for official notice of the fact that
10 documents were requested and no more than that, I have no
11 objection to it on that basis.

12 MR. NAFTALIN: No objection.

13 JUDGE STEINBERG: Exhibit 33 is received.

14 (The document referred to,
15 having been previously marked
16 for identification as Mass
17 Media Bureau Exhibit No. 33,
18 was received into evidence.)

19 MR. ARONOWITZ: Okay, I now identify for the
20 record as Mass Media Bureau Exhibit No. 34 a Response of
21 Gerard A. Turro to the First Joint Document Request and
22 Representative Selection of Documents. That's 10 pages.

23 MR. RILEY: Your Honor, I would object to the --

24 JUDGE STEINBERG: Let me get it identified.

25 MR. RILEY: I'm sorry.

1 JUDGE STEINBERG: The document described will be
2 marked for identification as Bureau Exhibit 34.

3 (The document referred to was
4 marked for identification as
5 Mass Media Bureau Exhibit No.
6 34.)

7 JUDGE STEINBERG: Now, Mr. Riley?

8 MR. RILEY: This would be Mr. Naftalin's client's
9 response, but simpler to inform them because this will come
10 up on 35. I object to the use of the word "representative"
11 in the identification of it.

12 Now, it's in Mr. Aronowitz's index and it's in his
13 oral introduction on the record here. It isn't anything you
14 would discern from the content of the exhibit itself though.
15 I think it's a selection of documents, and I would leave it
16 at that.

17 MR. ARONOWITZ: A selection, an excerpt?

18 MR. RILEY: Yes, it's just that I don't like the
19 descriptive word "representative."

20 JUDGE STEINBERG: Well.

21 MR. NAFTALIN: I agree with that; selective,
22 excerpt, no characterization of whether they are consistent
23 or whatever, if they are not.

24 JUDGE STEINBERG: Okay. Any other objection on
25 that?

1 MR. NAFTALIN: No.

2 MR. ARONOWITZ: Why don't we take out the word
3 "representative" and put "selection"?

4 MR. RILEY: That does it for me.

5 MR. NAFTALIN: As long as we understand.

6 JUDGE STEINBERG: Yes, all it was is a
7 description, so we will change the description to
8 "selection."

9 With no objection, the document is received with
10 the amended description.

11 (The document referred to,
12 having been previously marked
13 for identification as Mass
14 Media Bureau Exhibit No. 34,
15 was received into evidence.)

16 MR. ARONOWITZ: All right, which I believe brings
17 us to No. 35.

18 MR. RILEY: And with the same comment, Your Honor,
19 I don't otherwise object to it. It's just delete
20 "representative" from the description of the exhibit.

21 MR. ARONOWITZ: Not a problem. So listen to this.

22 I now identify as Mass Media Bureau Exhibit No. 35
23 an eight-page document that is the Response of Monticello
24 Mountaintop Broadcasting, Inc. to the First Joint Document
25 Request and a selection of document.

1 MR. RILEY: No objection.

2 MR. NAFTALIN: No objection.

3 JUDGE STEINBERG: The document described will be
4 marked for identification as Bureau Exhibit 35 and will be
5 received.

6 (The document referred to was
7 marked for identification as
8 Mass Media Bureau Exhibit No.
9 35, and was received into
10 evidence.

11 MR. ARONOWITZ: Okay, and I have one last one to
12 put in that came in after the submission of our direct case,
13 so I will hand one to everybody. Your Honor.

14 JUDGE STEINBERG: Okay, the reporter gets two.

15 MR. ARONOWITZ: Pardon?

16 JUDGE STEINBERG: The reporter gets two.

17 MR. ARONOWITZ: Oh, excuse me.

18 Okay, I now identify for the record Mass Media
19 Bureau Exhibit No. 36, which I have just handed to
20 everybody. It's a three-page document that's entitled
21 "Amendment to Answers of Gerard A. Turro to Joint
22 Interrogatories of the Mass Media Bureau and Universal
23 Broadcasting of New York, Inc."

24 JUDGE STEINBERG: The document is three pages and
25 it will be marked for identification as Bureau Exhibit 36.

1 (The document referred to was
2 marked for identification as
3 Mass Media Bureau Exhibit No.
4 36.)

5 MR. RILEY: No objection.

6 MR. NAFTALIN: No objection, Your Honor.

7 JUDGE STEINBERG: Okay, No. 36 will be received.

8 (The document referred to,
9 having been previously marked
10 for identification as Mass
11 Media Bureau Exhibit No. 36,
12 was received into evidence.)

13 JUDGE STEINBERG: Okay, that completes your
14 exhibits?

15 MR. ARONOWITZ: That's correct, Your Honor.

16 JUDGE STEINBERG: Okay, and Mr. Helmick's too?

17 MR. HELMICK: Yes, Your Honor.

18 JUDGE STEINBERG: Okay, let's break for lunch.
19 Let's go off the record.

20 (Whereupon, at 12:05 p.m., the hearing was
21 recessed, to resume at 1:15 p.m., this same day, Monday,
22 November 24, 1997.)

23 //

24 //

25 //

1 A F T E R N O O N S E S S I O N

2 (1:20 p.m.)

3 JUDGE STEINBERG: We are back on the record. And
4 I believe it's Mr. Turro's turn.

5 MR. HELMICK: Your Honor, before we start may I
6 cover one preliminary matter?

7 JUDGE STEINBERG: Yes.

8 MR. HELMICK: You raised on Mass Media Bureau
9 Exhibit No. 2, which was a copy of the complaint filed by
10 Universal which you received for official notice purposes
11 and background. Mr. Riley brought up the fact that the copy
12 of the complaint that's put in the exhibits was not a
13 complete copy, and you asked if we could stipulate as to
14 what the items were that were missing?

15 JUDGE STEINBERG: Yes.

16 MR. HELMICK: I have a copy of the original
17 complaint here, and I can read or give you the items that
18 were left out of the complaint, if that will be sufficient.

19 JUDGE STEINBERG: Okay. Mr. Riley, do you want to
20 take a look at it and maybe the two of you can get together?

21 MR. RILEY: Subject to check, but I'm sure Dick is
22 right because, after all, it was Dick who filed it. I'm
23 sure he's got the original there.

24 JUDGE STEINBERG: Okay.

25 MR. RILEY: If he could just put that on the

1 record so the record reflects what's not in Exhibit 2, that
2 will be fine.

3 MR. HELMICK: Okay, if I read it in the record?

4 JUDGE STEINBERG: Yes, why don't you read it into
5 the record, please.

6 MR. HELMICK: All right. Okay, Mass Media Bureau
7 Exhibit No. 2, the complaint, contains a copy of the
8 original complaint, Attachments 1, 2 and 3, and the
9 engineering statement and associated materials of Wilson La
10 Follette.

11 What is missing from that complaint as originally
12 filed is Attachment 4, which is the agreement by which
13 Ramapo Indian Hills Regional High School District Board of
14 Education assigned the license of FM broadcast station
15 WRRH(FM), Franklin Lakes, New Jersey, to Bergen County
16 Community Broadcast Foundation. That document was deleted
17 from the material in view of Your Honor's references -- any
18 reference to, at least initially a reference to Franklin
19 Lakes, which is not relevant in any designation order.

20 Attachment 5, which was not -- is not part of Mass
21 Media Bureau Exhibit 2, consists of a December 9, 1994
22 letter from Dennis Williams of the FM branch to Bergen
23 County Community Broadcast Foundation, and this was granting
24 special temporary authority for Station WJUX(FM), Franklin
25 Lakes, New Jersey, to remain silent.

1 Attached to that letter was a letter of November
2 22, 1994, from William J. Getz of Carl T. Jones to the
3 Commission requesting a special temporary authority for
4 WJUX, Franklin Lakes, New Jersey, to remain silent.

5 All right, the engineering material that is in
6 Mass Media Bureau Exhibit No. 2, which is from Cohen,
7 Dippell & Everist, was listed as Attachment 6 to the
8 original complaint. That material in the Bureau's exhibit
9 is complete.

10 Attachment 7 to the original complaint was not
11 submitted as part of Mass Media Bureau Exhibit 2. And that
12 attachment consists of a covering affidavit of John Kiernan
13 of William Patterson College attesting to the truthfulness
14 of transcripts which he made of commercial radio
15 announcements broadcast on Station WJUX during the period
16 January 1995. Those tapes were begun on January 5, 1995 at
17 11:15 a.m. and they continued until 11:20 a.m. on Saturday,
18 January 7, 1995. And that attachment consists of, I would
19 guess, 150 pages or close to it.

20 Attachment 8 was not submitted as part of Mass
21 Media Bureau Exhibit 2, and it consists of a two-page letter
22 dated February 10, 1994, from The Honorable Marge Roukema --
23 excuse me -- from Roy Stewart to the Honorable Marge
24 Roukema, copy of an FCC letter.

25 Attachment 9 was not submitted as part of Mass

1 Media Bureau Exhibit No. 2, but it is part of other exhibits
2 in the record. It is the January 31, 1991 letter from
3 Gerald Turro to the FCC, specifically to Mr. Alan Schneider
4 at the FCC, requesting an informal declaratory ruling. And
5 associated with that letter is the FCC response of November
6 19, 1991, from Roy Stewart to Ranier Kraus at Koteen &
7 Naftalin, and that letter is also part of the record in
8 other exhibits.

9 That concludes the missing material, Your Honor.

10 JUDGE STEINBERG: Okay, thank you, Mr. Helmick.

11 Okay, Mr. Naftalin.

12 MR. NAFTALIN: Your Honor, we would like to
13 present for admission the previously exchanged direct case
14 exhibits of Gerard A. Turro. Exhibit No. 1 is the statement
15 of Gerard A. Turro, 30 pages long.

16 JUDGE STEINBERG: The document described will be
17 marked for identification as Turro Exhibit No. 1.

18 (The document referred to was
19 marked for identification as
20 Turro Exhibit No. 1.)

21 JUDGE STEINBERG: Let me go off the record for a
22 minute.

23 (Discussion off the record.)

24 JUDGE STEINBERG: Okay, we are back on the record.
25 The document described will be marked for

1 identification as Turro Exhibit 1.

2 Any objections?

3 MR. ARONOWITZ: Yes, Your Honor.

4 I would like to turn to page 2, the second
5 paragraph that starts, "For many years," that whole
6 paragraph we would move to exclude as not relevant.

7 MR. NAFTALIN: Your Honor, Mr. Turro is the named
8 party to this proceeding. He is subject to the most --
9 potentially subject to the most severe penalties available
10 in the Communications Act. This is his direct testimony in
11 defense of his livelihood, and the second paragraph on page
12 2 goes to his state of mind. It provides, I believe,
13 relevant information and background as to the Jukebox Radio
14 Service which he established.

15 JUDGE STEINBERG: I don't have any problem with it
16 for background purposes. I mean, I guess it just explains
17 where he is coming from.

18 MR. NAFTALIN: He will be subject to cross-
19 examination. He's been deposed.

20 JUDGE STEINBERG: It also could explain the
21 documents that aren't in the record yet about why he asked
22 for, he asked for allocations to be made in Bergen County
23 and stuff; you know, the stuff from your Exhibit 1, the
24 first section. And also, I had a little trouble with the
25 "little ironically" part and "in my view." If that's his

1 opinion, you know, with the understanding that that's his
2 opinion.

3 MR. NAFTALIN: I believe what he says "in my
4 view," he's not trying to make a representation based upon
5 some expert or scrupulous market analysis. It's a statement
6 of his -- it's his state of mind.

7 MR. RILEY: It's in some respects like Mr. La
8 Follette's testimony about which we will have examination.

9 JUDGE STEINBERG: It would kind of support a
10 little of what Mr. La Follette had to say.

11 MR. RILEY: Well, I don't know that it does. It
12 supports a dearth of programming, in Mr. Turro's judgment,
13 Mr. La Follette characterizes programming that he thinks he
14 may have heard during the brief period.

15 JUDGE STEINBERG: I think it can go. It can cut
16 many ways.

17 Next?

18 MR. ARONOWITZ: All right, then the next paragraph
19 that starts, "In the past," going down onto the page to
20 where it finishes, "...Mr. Stewart's November 19, 1991,"
21 presumable the word is "letters, another exhibit," I would
22 strike this from this narrative portion in that the
23 documents speak for themselves, much like the summary of
24 what we presented this morning. I think the documents are
25 in here and I think the documents speak for themselves.

1 MR. NAFTALIN: Your Honor, this is a sworn
2 statement of the party in this proceeding, and his view of
3 what happened in his life; unlike the summary counsel is
4 mentioning, which was unsworn and unsupported by any
5 statement of any witness. This is part of the party's
6 statement, and he is presenting his view here. And a
7 significant issue in this proceeding has been an allegation
8 that Mr. Turro lacked candor before the Commission, and he
9 is providing evidence here in support of his defense that he
10 never lacked candor, and we believe this paragraph helps
11 support the proposition that he has been forthcoming with
12 information to Commission at all times relevant.

13 JUDGE STEINBERG: Okay, I don't see any harm in
14 having the information here in this exhibit with a strong
15 caveat, and that is that the documents, when he refers to a
16 document, the document speaks for itself. If there is a
17 conflict between the way he has characterized the document
18 or paraphrased from a document, et cetera, the conflict is
19 going to be decided in favor of whatever the document says.

20 MR. NAFTALIN: That's understood, Your Honor.

21 JUDGE STEINBERG: So that the -- you know, I don't
22 see any problem having it here with that understanding that
23 the documents generally speak for themselves -- well, they
24 always speak for themselves unless there is some testimonial
25 explanation that differs.

1 MR. NAFTALIN: Understood, Your Honor.

2 JUDGE STEINBERG: So I will overrule that one.

3 And there is a distinction because, unlike the Bureau's
4 Exhibit 1, if you have a question about a sentence in here,
5 there is going to be a witness on the stand who can answer
6 the question, so then that's a big difference.

7 MR. ARONOWITZ: On page 4, the first full
8 paragraph, "I discussed with Mr. Weis," the sentence, "I
9 discussed with Mr. Weis and an arrangement consistent with
10 the one Mr. Stewart of the Bureau had stated in the November
11 '91 letter would be permissible under the FCC's rules."

12 I would also object to that inasmuch as it seems
13 to make a legal conclusion. I think he can tell us what he
14 did and you all make a determination as to whether that is
15 consistent or not with Mr. Stewart's letter and whether that
16 is consistent or not with the law.

17 JUDGE STEINBERG: Just that one sentence or the
18 whole paragraph?

19 MR. ARONOWITZ: I believe it's just the one
20 sentence. I mean, the next sentence, two sentences appear
21 to be factual statements.

22 MR. NAFTALIN: I'm just.

23 MR. ARONOWITZ: But the determination as to
24 whether their arrangement was consistent with the one that
25 Mr. Stewart had stated --

1 JUDGE STEINBERG: Well, this is -- this is his
2 opinion.

3 MR. ARONOWITZ: Okay.

4 JUDGE STEINBERG: This is what, you know, if you
5 want to say what was the basis of your opinion, I don't have
6 any problem with you cross-examining on that, but I don't
7 see that this is a legal conclusion. To the extent that
8 this type of objection would come up again, everything in
9 here is his opinion, just like everything in Mr. La
10 Follette's statement is his opinion as to what went on and
11 what he heard, et cetera. I don't see that this is a legal
12 conclusion. It's Mr. Turro's belief. And if his belief
13 is --

14 MR. ARONOWITZ: Well, if -- I will hold this.
15 This is going to come up again and I might direct -- rather
16 than jumping the gun, I will save it.

17 JUDGE STEINBERG: Yes.-

18 MR. ARONOWITZ: There are other conclusions that
19 are made, both legal and factual, that it seems difficult to
20 just accept as Mr. Turro's opinion. He's rendering in some
21 cases, and we will get to them, legal conclusions. I don't
22 believe that that is something that is his -- to say that,
23 well, let me hold it for the moment.

24 JUDGE STEINBERG: Okay.

25 MR. ARONOWITZ: Let me hold it until we can --

1 JUDGE STEINBERG: But he can certainly say, "I
2 believe that what I did was legal," and then you --

3 MR. ARONOWITZ: But that's not what he is saying
4 here.

5 JUDGE STEINBERG: Or, "I believe that the
6 arrangement was consistent with the one in the November
7 letter." And then you can, say, "What's your basis for that
8 belief? Why do you think it was consistent?"

9 MR. ARONOWITZ: So on any conclusion that he makes
10 here be it legal or factual will have to sit with his
11 belief?

12 JUDGE STEINBERG: You can ask him, "What was the
13 basis for your conclusion?" And if the basis for his
14 conclusion was so ridiculous that in my opinion no
15 reasonable person could conclude that from the set of facts,
16 then, you know, that's your job to show. But he can
17 certainly say, "It was my conclusion that, it was my
18 understanding that, it was my belief that..." I mean, you
19 don't have to --

20 MR. ARONOWITZ: Your Honor, I'm not sure that
21 that's what this says.

22 JUDGE STEINBERG: Well, this sentence -- well,
23 that's the way I'm reading it. "I discussed with Mr. Weis an
24 arrangement (which I believe was consistent with the one Mr.
25 Stewart of" -- I mean, this is going to -- when I write a